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OFFICE OF PETITIONS

In re Application of :
King, et al. : DECISION ON PETITION
Application No. 09/551,303 :
Filed: April 18, 2000 :
Atty. Dkt. No.: 04860.P2439 :

This decision is in response to the petition under 37 CFR 1.137(b), filed November 5, 2004.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned June 11, 2003 for failure to timely submit a proper reply to the final Office action mailed March 10, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed January 29, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.


The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the final Office action mailed March 10, 2003 is accepted as having been unintentionally delayed.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. Thus, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the

result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office. Moreover, the appropriate power of attorney documentation should be submitted.

This application file is being forwarded to Technology Center 2100 for processing of the RCE submitted herewith.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.


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